

(c) Within 90 days of receipt of an EEOC decision; or

(d) After 180 days from the date of filing a request for review with the Commission if an EEOC decision has not been issued by the Commission.

§ 268.506 Civil action: Equal Pay Act.

A complainant may file a civil action under section 16(b) of the Fair Labor Standards Act (29 U.S.C. 216(b)) in a court of competent jurisdiction within two years or, if the violation is willful, three years of the date of the alleged violation of the Equal Pay Act regardless of whether he or she pursued any administrative complaint processing. Recovery of back wages under the Equal Pay Act is limited to two years prior to the date of filing suit, or to three years if the violation is deemed willful. Liquidated damages in an equal amount may also be awarded. The filing of a complaint or request for review with the Commission under this part shall not toll the time for filing a civil action.

[59 FR 16098, Apr. 6, 1996, as amended at 61 FR 13079, Mar. 26, 1996]

§ 268.507 Effect of filing a civil action.

Filing a civil action under §§ 268.505 or 268.506 of this part shall terminate the Commission's processing of any request for review. If a private suit is filed subsequent to the filing of a request for review, the parties shall notify the Commission of such filing in writing.

Subpart F—Matters of General Applicability

§ 268.601 EEO group statistics.

(a) The Board shall collect and maintain accurate employment information on the race, national origin, sex and disabilities of its employees.

(b) Data on race, national origin and sex shall be collected by voluntary self-identification. If an employee does not voluntarily provide the requested information, the Board shall advise the employee of the importance of the data and of the Board's obligation to report it. If the employee still refuses to provide the information, the Board shall make a visual identification and in-

form the employee of the data it will be reporting. If the Board believes that information provided by an employee is inaccurate, the Board shall advise the employee that the purpose for which the data is being collected is solely statistical, of the need for accuracy, of the Board's recognition of the sensitivity of the information, and of the existence of procedures to prevent its unauthorized disclosure. If, thereafter, the employee declines to change the apparently inaccurate self identification, the Board shall accept it.

(c) Subject to applicable law, the information collected under paragraph (b) of this section shall be disclosed only in the form of gross statistics. The Board will not collect or maintain any information on the race, national origin, or sex of individual employees except in accordance with applicable law and when an automated data processing system is used in accordance with standards and requirements prescribed by the Commission to insure individual privacy and the separation of that information from the employee's personnel record.

(d) The Board's system shall incorporate the following controls:

(1) Only those categories of race and national origin approved by the Commission shall be used; and

(2) Only the specific procedures for the collection and maintenance of data that are prescribed or approved by the Commission shall be used.

(e) The Board shall use the data only in studies and analyses that contribute affirmatively to achieving the objectives of the Board's equal employment opportunity program. The Board shall not establish quotas for the employment of persons on the basis of race, color, religion, sex, or national origin.

(f) Data on disabilities shall also be collected by voluntary self-identification. If an employee does not voluntarily provide the requested information, the Board shall advise the employee of the importance of the data and of the Board's obligation to report it. If an employee who has been appointed pursuant to the Board's affirmative action program for hiring individuals with a disability still refuses to provide the requested information, the Board shall identify the employee's

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disability based upon the records supporting the appointment. If any other employee still refuses to provide the requested information or provides information that the Board believes to be inaccurate, the Board shall report the employee's disability status as unknown.

(g) The Board shall report to the Commission on employment by race, national origin, sex and disability in the form and at such times as the Board and Commission shall agree.

§ 268.602 Reports to the Equal Employment Opportunity Commission.

(a) The Board shall report to the Commission information concerning pre-complaint counseling and the status, processing, and disposition of complaints under this part at such times and in such manner as the Board and Commission shall agree.

(b) The Board shall advise the Commission whenever it is served with a federal court complaint based upon a complaint that is pending review at the Commission.

(c) The Board shall prepare annually equal employment opportunity plans of actions, in the form requested by the Commission, and shall submit such plans for review and advice by the Commission. The plans of action shall include:

(1) Provision for the establishment of training and education programs designed to provide maximum opportunity for employees to advance so as to perform at their highest potential;

(2) Description of the qualifications, in terms of training and experience relating to equal employment opportunity, of the principal and operating officials concerned with administration of the Board's equal employment opportunity program; and

(3) Description of the allocation of personnel and resources proposed by the Board to carry out its equal employment opportunity program.

§ 268.603 Voluntary settlement attempts.

The Board shall make reasonable efforts to settle, voluntarily, complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints, including the

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pre-complaint counseling stage. Any settlement reached shall be reduced to writing and shall be signed by both parties and shall identify the allegations resolved.

§ 268.604 Filing and computation of time.

(a) All time periods in this part that are stated in terms of days are calendar days unless otherwise stated.

(b) A document shall be deemed timely filed if it is delivered in person, or sent via U.S. mail and postmarked before the expiration of the applicable filing period; or, in the absence of a legible postmark, if it is received via U.S. mail within five days of the expiration of the applicable filing period.

(c) The time limits in this part are subject to waiver, estoppel, and equitable tolling.

(d) The first day counted shall be the day after the event from which the time period began to run and the last day of the period shall be included, unless it falls on a Saturday, Sunday, or Federal holiday, in which case the period shall be extended to include the next business day.

§ 268.605 Representation and official time.

(a) At any stage in the processing of a complaint, including the counseling stage under § 268.204 of this part, the complainant shall have the right to be accompanied, represented and advised by a representative of complainant's choice.

(b) If the complainant is an employee of the Board, he or she shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and to respond to Board and Commission requests for information. If the complainant is an employee of the Board and he or she designates another employee of the Board as his or her representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and respond to Board and Commission requests for information. The Board is not obligated to change work schedules, incur overtime wages, or pay travel expenses to